

ASSEMBLY BILL

No. 2451

Introduced by Assembly Member Daly

February 21, 2014

An act to amend Sections 12240 and 12531 of, and to add Sections 12210.7 and 12506.5 to, the Business and Professions Code, relating to weights and measures.

LEGISLATIVE COUNSEL'S DIGEST

AB 2451, as introduced, Daly. Weights and measures: water submeters.

(1) Existing law requires the sealer of a county to inspect and test weighing and measuring devices, as specified, that are used or sold for commercial purposes in the county. Existing law, until January 1, 2016, authorizes the county board of supervisors to charge fees to recover the costs of the county sealer to perform these duties. For marinas, mobilehome parks, recreational vehicle parks, and apartment complexes, where the owner is responsible for the utility meters, existing law prohibits the device fee for water submeters from exceeding \$2 per device per space or apartment. Existing law prohibits a person from engaging in business as a service agency unless registered by the Secretary of Food and Agriculture, as specified. Existing law defines “service agency” to mean any person that repairs a commercial device, designed to be used for determining weight or measure.

This bill would require a county sealer, upon written request of a service agent, to test and certify the accuracy of a water submeter within the county in which the county sealer operates. The bill would authorize a water submeter certified to be accurate to be used in any county in the state. The bill would require a sealer in any county to accept for

installation a water submeter in working order that is certified to be accurate. The bill would authorize the board of supervisors, until January 1, 2016, to charge fees to cover the cost of the county sealer of performing these services. By imposing additional duties on county sealers, this bill would impose a state-mandated local program.

(2) Existing law requires a sealer to seize and condemn, and authorizes the sealer to destroy, incorrect weights and measures and weighing and measuring instruments used for commercial purposes which are not susceptible of repair. Existing law requires a sealer to mark incorrect devices, which are susceptible of repair, with a tag or other device with the words “Out of order.” For these purposes, existing law defines “incorrect” as any instrument which fails to meet prescribed tolerances and specifications and other technical requirements for commercial weighing and measuring.

This bill would instead require a sealer to return an incorrect water submeter, which is not susceptible of repair, to the appropriate service agent, and to mark the water submeter with a tag or other device with the words “Out of order.” By placing additional duties on county sealers, this bill would impose a state-mandated local program. The bill would prohibit such a water meter from being placed in service in the state. Because the bill would impose additional duties on county sealers and because a violation of this provision would be a crime, this bill would impose a state-mandated local program.

(3) Existing law regulates the utilization and repair of weighing or measuring devices. Under existing law, for purposes of weighing and measuring devices, the term “placed in service” means to permit the use of a device that has been tested and found to be correct, as specified, and type approved, as provided, or to submit a device to a sealer for verification prior to installation. Under existing law, a device may only be placed in service by a sealer or a service agency.

This bill would limit the term “placed in service” to mean to permit the use of a device that has been tested and found to be correct, as specified, and type approved, as provided.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for specified reasons.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs

so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12210.7 is added to the Business and
2 Professions Code, to read:

3 12210.7. (a) A sealer shall, upon the written request of a
4 service agent, as defined in Section 12531, test and certify the
5 accuracy of a water submeter within the county in which the sealer
6 operates.

7 (b) (1) Notwithstanding any other law, a water submeter
8 certified to be accurate pursuant to subdivision (a) may be used in
9 any county in the state.

10 (2) A sealer in any county shall accept for installation a water
11 submeter in working order that was certified pursuant to
12 subdivision (a).

13 SEC. 2. Section 12240 of the Business and Professions Code
14 is amended to read:

15 12240. (a) Except as otherwise provided in this section, the
16 board of supervisors, by ordinance, may charge an annual
17 registration fee, not to exceed the county's total cost of actually
18 inspecting or testing the devices as required by law, to recover the
19 costs of inspecting or testing weighing and measuring devices
20 required of the county sealer pursuant to ~~Section 12210~~, Sections
21 12210 and 12210.7, and to recover the cost of carrying out Section
22 12211.

23 (b) Except as otherwise provided in this section, the annual
24 registration fee shall not exceed the amount set forth in subdivisions
25 (f) to (r), inclusive.

26 (c) The county may collect the fees biennially, in which case
27 they shall not exceed twice the amount of an annual registration
28 fee. The ordinance shall be adopted pursuant to Article 7
29 (commencing with Section 25120) of Chapter 1 of Part 2 of
30 Division 2 of Title 3 of the Government Code.

31 (d) Retail gasoline pump meters, for which the above fees are
32 assessed, shall be inspected as frequently as required by regulation,
33 but not less than once every two years.

(e) Livestock scales, animal scales, and scales used primarily for weighing feed and seed, for which the above fees are assessed, shall be inspected as frequently as required by regulation.

(f) For purposes of this section, the annual registration fee for a business that uses a commercial weighing or measuring device or devices shall consist of a business location fee, a Department of Food and Agriculture administrative fee, as specified in Section 12241, and a device fee, as specified in subdivisions (g) to (r), inclusive. The business location fee and device fee shall not exceed one hundred dollars (\$100) per business location, plus 100 percent of the maximum applicable device fee listed in subdivisions (g) to (r), inclusive.

(g) (1) For marinas, mobilehome parks, recreational vehicle parks, and apartment complexes, where the owner of the marina, park, or complex owns and is responsible for the utility meters, the device fee shall not exceed the following:

(A) For water submeters, two dollars (\$2) per device per space or apartment.

(B) For electric submeters, three dollars (\$3) per device per space or apartment.

(C) For vapor submeters, four dollars (\$4) per device per space or apartment.

(2) Marinas, mobilehome parks, recreational vehicle parks, and apartment complexes for which the above fees are assessed shall be inspected and tested as frequently as required by regulation.

(h) For weighing devices, other than livestock, with capacities of 10,000 pounds or greater, the device fee shall not exceed two hundred fifty dollars (\$250) per device; for weighing devices, other than livestock scales, with capacities of at least 2,000 pounds but less than 10,000 pounds, the device fee shall not exceed one hundred fifty dollars (\$150) per device.

(i) This section does not apply to farm milk tanks.

(j) A scale or device used in a certified farmers' market, as defined by Section 113742 of the Health and Safety Code, is not required to be registered in the county where the market is conducted, if the scale or device has an unexpired seal for the current year, issued by a licensed California county sealer.

(k) For livestock scales with capacities of 10,000 pounds or greater, the device fee shall not exceed one hundred fifty dollars (\$150) per device; for livestock scales with capacities of at least

1 2,000 pounds but less than 10,000 pounds, the device fee shall not
2 exceed one hundred dollars (\$100) per device.

3 (l) For liquefied petroleum gas (LPG) meters, truck mounted
4 or stationary, the device fee shall not exceed one hundred
5 eighty-five dollars (\$185) per device.

6 (m) For wholesale and vehicle meters, the device fee shall not
7 exceed seventy-five dollars (\$75) per device.

8 (n) For computing scales, the device fee shall not exceed twenty
9 dollars (\$20) per device. For purposes of this subdivision, a
10 computing scale shall be a weighing device with a capacity of less
11 than 100 pounds that indicates the money value of any commodity
12 weighed, at predetermined unit prices, throughout all or part of
13 the weighing range of the scale. For the purposes of this
14 subdivision, the portion of the annual registration fee consisting
15 of the business location fee and the device fees authorized by this
16 subdivision shall not exceed the sum of one thousand dollars
17 (\$1,000) for each business location.

18 (o) For jewelry and prescription scales, the device fee shall not
19 exceed eighty dollars (\$80) per device. For purposes of this
20 subdivision, a jewelry or prescription scale shall be a scale that
21 meets the specifications, tolerances, and sensitivity requirements
22 established or adopted by the secretary applicable to those devices
23 in accordance with Section 12107.

24 (p) For weighing devices, other than computing, jewelry, and
25 prescription scales as defined in subdivisions (n) and (o), with
26 capacities of at least 100 pounds but less than 2,000 pounds, the
27 device fee shall not exceed fifty dollars (\$50) per device.

28 (q) For vehicle odometers utilized to charge mileage usage fees
29 in vehicle rental transactions or in computing other charges for
30 service, including, but not limited to, ambulance, towing, or
31 limousine services, the device fee shall not exceed sixty dollars
32 (\$60) per device.

33 (r) This section does not apply to odometers in rental passenger
34 vehicles, as defined in Section 465 of the Vehicle Code, that are
35 subject to Section 1936 of the Civil Code. If a person files a
36 complaint with the county sealer regarding the accuracy of a rental
37 passenger vehicle odometer, the county sealer may charge a fee
38 to the operator of the vehicle rental business sufficient to recover,
39 but not to exceed, the reasonable cost of testing the device in
40 investigation of the complaint.

1 (s) For vehicle odometers utilized to charge mileage usage fees
2 in vehicle rental transactions involving nonpassenger vehicles that
3 are not subject to Section 1936 of the Civil Code, the portion of
4 the annual registration fee consisting of the business location fee
5 and the device fee authorized pursuant to subdivision (q) shall not
6 exceed the sum of three hundred forty dollars (\$340) for each
7 business location.

8 (t) For all other commercial weighing or measuring devices not
9 listed in subdivisions (g) to (r), inclusive, the device fee shall not
10 exceed twenty dollars (\$20) per device. For the purposes of this
11 subdivision, the total portion of the annual registration fee
12 consisting of the business location fee and the device fees
13 authorized by this subdivision shall not exceed the sum of one
14 thousand dollars (\$1,000), for each business location.

15 (u) For the purposes of this section, a single business location
16 is defined as:

17 (1) Each business location that uses one or more categories or
18 types of commercial devices as set forth in subdivisions (g) to (p),
19 inclusive, and in subdivision (t), that require the use of specialized
20 testing equipment and that necessitates not more than one
21 inspection trip by a weights and measures official.

22 (2) Each vehicle, except for those vehicles that are employed
23 in vehicle rental transactions, in which one or more commercial
24 devices is installed and used.

25 (3) (A) For vehicles that are employed in vehicle rental
26 transactions and that are not subject to Section 1936 of the Civil
27 Code, each business location at which vehicles are stored or
28 maintained by a vehicle rental company for the purposes of renting
29 vehicles to customers.

30 (B) A facility that meets all of the following criteria shall not
31 be considered a business location for the purposes of this
32 paragraph:

33 (i) The facility is not wholly, or in any part, owned, leased, or
34 operated by the vehicle rental company.

35 (ii) The facility is not operated or staffed by an employee of the
36 vehicle rental company.

37 (iii) The facility stores or maintains, on a temporary basis,
38 vehicles at the location for customer convenience.

39 (C) If a person files a complaint with the county sealer regarding
40 the accuracy of an odometer in a vehicle found or located at a

1 facility described in subparagraph (B), the county sealer may
2 charge a fee to the operator of the vehicle rental company sufficient
3 to recover, but not to exceed, the reasonable cost of testing the
4 device in investigation of the complaint.

5 SEC. 3. Section 12506.5 is added to the Business and
6 Professions Code, to read:

7 12506.5. Notwithstanding any other law, a sealer shall return
8 an incorrect water submeter, which in his or her judgment is not
9 susceptible of repair, to the appropriate service agent and shall
10 mark the water submeter with a tag or other suitable device with
11 the words "Out of order." An incorrect water submeter returned
12 to a service agent pursuant to this section shall not be placed in
13 service in this state.

14 SEC. 4. Section 12531 of the Business and Professions Code
15 is amended to read:

16 12531. As used in this chapter, the following definitions are
17 applicable:

18 (a) "Service agency" means any person, as defined in Section
19 12011, that for hire, award, commission, or any other payment of
20 any kind, repairs a commercial device.

21 (b) "Service agent" means any person employed by a service
22 agency to repair a commercial device.

23 (c) "Device" means any weighing or measuring equipment,
24 contrivance, or instrument used, or designed to be used, for
25 determining weight or measure, and includes any tool, appliance,
26 or accessory used in connection therewith, that is used for
27 commercial purposes as defined in subdivision (e) of Section
28 12500.

29 (d) "Placed in service" means to permit the use of a device that
30 has been tested and found to be correct, as defined in subdivision
31 (c) of Section 12500, and type approved, as provided for in Section
32 ~~12500.5, or to submit a device to a sealer for verification prior to~~
33 ~~installation.~~ 12500.5.

34 (e) "Correct" means any device that meets all of the tolerance
35 and specification requirements of Section 12107.

36 (f) "Repair," in any of its variant forms, means to provide
37 maintenance, or to install, adjust, recondition, or service a device.

38 SEC. 5. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution for certain
40 costs that may be incurred by a local agency or school district

1 because a local agency or school district has the authority to levy
2 service charges, fees, or assessments sufficient to pay for the
3 program or level of service mandated by this act or because costs
4 that may be incurred by a local agency or school district will be
5 incurred because this act creates a new crime or infraction,
6 eliminates a crime or infraction, or changes the penalty for a crime
7 or infraction, within the meaning of Section 17556 of the
8 Government Code, or changes the definition of a crime within the
9 meaning of Section 6 of Article XIII B of the California
10 Constitution.

11 However, if the Commission on State Mandates determines that
12 this act contains other costs mandated by the state, reimbursement
13 to local agencies and school districts for those costs shall be made
14 pursuant to Part 7 (commencing with Section 17500) of Division
15 4 of Title 2 of the Government Code.